

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Francesca Chery	Team: Squad #14	CCRB Case #: 202106069	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Friday, 10/08/2021 9:10 PM	Location of Incident: Washington Square Park (West of fountain)	18 Mo. SOL 4/8/2023	Precinct: 06
Date/Time CV Reported Fri, 10/08/2021 10:14 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 10/08/2021 10:14 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT James Lee	00000	930421	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Darnell Rayford	19675	941245	PBMS
2. PO Marcus Jenkins	00849	936813	PBMS

Officer(s)	Allegation	Investigator Recommendation
A.LT James Lee	Discourtesy: Lieutenant James Lee acted discourteously toward § 87(2)(b)	

### Case Summary

On October 8, 2021, § 87(2)(b) filed this complaint with the CCRB.

On October 8, 2021, at approximately 9:10 p.m., § 87(2)(b) attended a mutual aid event that took place at Washington Square Park in Manhattan. Lieutenant James Lee, Police Officer Darnell Rayford, and Police Officer Marcus Jenkins, all of Patrol Borough Manhattan South, were on patrol duty. Several civilians present at the mutual aid event were displeased with the police officers' presence and asked them to leave the park. § 87(2)(b) and a few other civilians urged the officers to put on a mask and moments later, Lieutenant Lee released two forceful coughs in quick succession without covering his mouth in the direction of § 87(2)(b) (**Allegation A: Discourtesy, § 87(2)(g)**).

§ 87(2)(g)

§ 87(2)(b) recorded a video on their cell phone, the relevant aspects of which are discussed in further detail below. § 87(2)(g)

No arrests or summonses resulted from this incident.

### Findings and Recommendations

#### **Allegation (A) Discourtesy: Lieutenant James Lee acted discourteously toward § 87(2)(b)**

The investigation established the following facts:

On October 8, 2021, at approximately 9:10 p.m., § 87(2)(b) was at a mutual aid event in Washington Square Park when several civilians present expressed displeasure towards the police officers' presence and asked them to leave. Lieutenant Lee, PO Rayford, and PO Jenkins declined to leave the space and the civilians continued to insist that they should leave. § 87(2)(b) observed that Lieutenant Lee, PO Rayford, and PO Jenkins were unmasked and asked them to put on a mask when interacting with members of the public. Moments later, Lieutenant Lee released two forceful coughs in quick succession without covering his mouth.

§ 87(2)(b)'s cell-phone footage (BR 06) shows Lieutenant Lee, PO Rayford, and PO Jenkins interacting with a group of people. The video begins with § 87(2)(b) and the other civilians off screen asking the Lieutenant and the officers for their names and shield numbers, which they clearly point towards or verbally provide. At the 00:15 mark, PO Jenkins says that this is a public space, and § 87(2)(b) and the other civilians begin to urge the officers to put on masks. § 87(2)(b) continues to inquire about the officers' lack of masks, and at the 01:01 mark, Lieutenant Lee, who is maskless and standing within feet of § 87(2)(b) as he looks at his cell phone, audibly coughs twice in succession in § 87(2)(b)'s direction. As he coughs, Lieutenant Lee takes two steps toward § 87(2)(b). Lieutenant Lee does not cover his mouth, turn away, or do anything else to otherwise prevent himself from coughing in the direction of § 87(2)(b).

§ 87(2)(b) testified (BR 01) that on October 8, 2021, at approximately 9:10 p.m., they were at a mutual aid event that took place at Washington Square Park when they observed Lieutenant Lee, PO Rayford, and PO Jenkins standing by and observing the event. Lieutenant Lee, PO Rayford, and PO Jenkins were unmasked throughout the incident and § 87(2)(b) and a few other civilians urged them to put on a mask when interacting with members of the public. PO Jenkins insisted the officers were not required to do so because they were fully vaccinated. Lieutenant Lee was silent and remained on his cellphone. As § 87(2)(b) and other civilians continued to urge them to put on a mask, Lieutenant Lee intentionally released two forceful coughs in § 87(2)(b)'s direction without covering his mouth.

Lieutenant Lee testified (BR 02) that he, PO Rayford, and PO Jenkins were on patrol duty at Washington Square Park and a crowd of civilians urged Lieutenant Lee and the other officers to leave the space, but they replied that they had a right to be there and were not disturbing anyone. At one point, several individuals told Lieutenant Lee, PO Rayford, and PO Jenkins to wear a mask, in which they replied that it was not required because they were fully vaccinated. Lieutenant Lee did not recall coughing during this incident. Lieutenant Lee viewed § 87(2)(b)'s cell phone footage and testified that he did not intentionally cough, and the timing of his cough following the requests to wear a mask was coincidental.

Officers are expected to maintain a higher standard of integrity than is generally expected of others, to value human life by respecting the dignity of each individual and render their services with courtesy and civility. NYPD Patrol Guide Procedure 200-02 (BR 07).

§ 87(2)(b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to two CCRB complaints and has been named as a victim in two of the allegations (BR 04):
  - § 87(2)(b)
  - § 87(2)(b)
- Lieutenant Lee has been a member of service for 19 years and has been a subject in 15 CCRB complaints and 36 allegations, of which five were substantiated.
  - 200702497 involved substantiated allegations of gun drawn and property damage against Lieutenant. Lee. The Board recommended charges and the NYPD imposed no disciplinary action.
  - 201300702 involved substantiated allegations of a vehicle search against Lieutenant. Lee. The Board recommended Command Discipline and the NYPD imposed no disciplinary action.
  - § 87(2)(g)
  - 201607870 involved substantiated allegations of an arrest, entry and search of premises, and a stop of person against Lieutenant Lee. The Board recommended Command Discipline B and the NYPD imposed formalized training.

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of December 27, 2021, The New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 05).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 14

Investigator:	<u>Francesca Chery</u>	<u>Inv. Chery</u>	<u>3/10/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Cassandra Fenkel</u>	<u>IM Cassandra Fenkel</u>	<u>03/10/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

**CCRB Case # 202106069**

